

Senate Bill 568

By: Senators Weber of the 40th, Johnson of the 1st and Williams of the 19th

A BILL TO BE ENTITLED

AN ACT

To incorporate the City of Dunwoody in DeKalb County; to provide for a charter for the City of Dunwoody; to provide for incorporation, boundaries, and powers of the city; to provide for general powers and limitations on powers; to provide for a governing authority of such city and the powers, duties, authority, election, terms, method of filling vacancies, compensation, expenses, qualifications, prohibitions, and districts relative to members of such governing authority; to provide for inquiries and investigations; to provide for organization and procedures; to provide for ordinances and codes; to provide for a charter commission; to provide for the office of mayor and certain duties and powers relative to the office of mayor; to provide for administrative responsibilities; to provide for boards, commissions, and authorities; to provide for a city manager, a city attorney, a city clerk, a tax collector, a city accountant, city internal auditor, and other personnel; to provide for a municipal court and the judge or judges thereof; to provide for practices and procedures; to provide for ethics and disclosures; to provide for taxation, licenses, and fees; to provide for franchises, service charges, and assessments; to provide for bonded and other indebtedness; to provide for accounting and budgeting; to provide for purchases; to provide for homestead exemptions; to provide for bonds for officials; to provide for other matters relative to the foregoing; to provide for a referendum; to provide effective dates and transitional provisions governing the transfer of various functions and responsibilities from DeKalb County to the City of Dunwoody; to provide for severability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I

CREATION, INCORPORATION, POWERS

SECTION 1.01.

Incorporation.

S. B. 568

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1 This Act shall constitute the charter of the City of Dunwoody, Georgia. The City of
2 Dunwoody, Georgia, in the County of DeKalb, and the inhabitants thereof, are constituted
3 and declared a body politic and corporate under the same name and style of the "City of
4 Dunwoody" and by that name shall have perpetual succession, may sue and be sued, plead
5 and be impleaded, in all courts of law and equity, and in all actions whatsoever, and may
6 have and use a common seal.

7 **SECTION 1.02.**

8 Corporate boundaries.

9 The boundaries of the City of Dunwoody shall be those set forth and described in Appendix
10 A of this charter, and said Appendix A is incorporated into and made a part of this charter.
11 The city clerk shall maintain a current map and written legal description of the corporate
12 boundaries of the city, and such map and description shall incorporate any changes which
13 may hereafter be made in such corporate boundaries.

14 **SECTION 1.03.**

15 Powers and construction.

16 (a) This city shall have all powers possible for a city to have under the present or future
17 Constitution and laws of this state as fully and completely as though they were specifically
18 enumerated in this Act. This city shall have all the powers of self-government not otherwise
19 prohibited by this Act or by general law.

20 (b) The powers of this city shall be construed liberally in favor of the city. The specific
21 mention or failure to mention particular powers shall not be construed as limiting in any way
22 the powers of this city. These powers shall include, but not be limited to, the following:

23 (1) Animal regulations. To regulate and license or to prohibit the keeping or running
24 at-large of animals and fowl, and to provide for the impoundment of same if in violation
25 of any ordinance or lawful order; to provide for the disposition by sale, gift, or humane
26 destruction of animals and fowl when not redeemed as provided by ordinance; and to
27 provide punishment for violation of ordinances enacted hereunder;

28 (2) Appropriations and expenditures. To make appropriations for the support of the
29 government of the city; to authorize the expenditure of money for any purposes authorized
30 by this charter and for any purpose for which a municipality is authorized by the laws of
31 the State of Georgia; and to provide for the payment of expenses of the city;

1 (3) Building regulation. To regulate and to license the erection and construction of
2 buildings and all other structures; to adopt building, housing, plumbing, electrical, gas, and
3 heating and air conditioning codes; and to regulate all housing and building trades to the
4 extent permitted by general law;

5 (4) Business regulation and taxation. To levy and to provide for the collection of
6 regulatory fees and taxes on privileges, occupations, trades, and professions as authorized
7 by Title 48 of the O.C.G.A. or other such applicable laws as are or may hereafter be
8 enacted; to permit and regulate the same; to provide for the manner and method of payment
9 of such regulatory fees and taxes; and to revoke such permits after due process for failure
10 to pay any city taxes or fees;

11 (5) Condemnation. To condemn property inside the corporate limits of the city for present
12 or future use and for any corporate purpose deemed necessary by the city council utilizing
13 procedures enumerated in Title 22 of the O.C.G.A. or such other applicable laws as are or
14 may hereafter be enacted;

15 (6) Contracts. To enter into contracts and agreements with other governmental entities and
16 with private persons, firms, and corporations;

17 (7) Emergencies. To establish procedures for determining and proclaiming that an
18 emergency situation exists within or without the city, and to make and carry out all
19 reasonable provisions deemed necessary to deal with or meet such an emergency for the
20 protection, safety, health, or well-being of the citizens of the city;

21 (8) Environmental protection. To protect and preserve the natural resources, environment,
22 and vital areas of the city, the region, and the state through the preservation and
23 improvement of air quality, the restoration and maintenance of water resources, the control
24 of erosion and sedimentation, the management of storm water and establishment of a
25 storm-water utility, the management of solid and hazardous waste, and other necessary
26 actions for the protection of the environment;

27 (9) Ethics. To adopt ethics ordinances and regulations governing the conduct of municipal
28 elected officials, appointed officials, and employees, establishing procedures for ethics
29 complaints, and setting forth penalties for violations of such rules and procedures;

30 (10) Fire regulations. To fix and establish fire limits and from time to time to extend,
31 enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with
32 general law, relating to both fire prevention and detection and to fire fighting; and to
33 prescribe penalties and punishment for violations thereof;

34 (11) Garbage fees. To levy, fix, assess, and collect a garbage, refuse, and trash collection
35 and disposal and other sanitary service charge, tax, or fee for such services as may be
36 necessary in the operation of the city from all individuals, firms, and corporations residing

1 in or doing business therein benefiting from such services; to enforce the payment of such
2 charges, taxes, or fees; and to provide for the manner and method of collecting such service
3 charges, taxes, or fees;

4 (12) General health, safety, and welfare. To define, regulate, and prohibit any act,
5 practice, conduct, or use of property which is detrimental to health, sanitation, cleanliness,
6 welfare, and safety of the inhabitants of the city, and to provide for the enforcement of such
7 standards;

8 (13) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for
9 any purpose related to powers and duties of the city and the general welfare of its citizens,
10 on such terms and conditions as the donor or grantor may impose;

11 (14) Health and sanitation. To prescribe standards of health and sanitation and to provide
12 for the enforcement of such standards;

13 (15) Homestead exemption. To establish and maintain procedures for offering homestead
14 exemptions to residents of the city and for maintaining current homestead exemptions of
15 residents of the city as authorized by Acts of the General Assembly;

16 (16) Jail sentences. To provide that persons given jail sentences in the city's court may
17 work out such sentences in any public works or on the streets, roads, drains, and other
18 public property in the city; to provide for commitment of such persons to any jail; to
19 provide for the use of pretrial diversion and any alternative sentencing allowed by law; or
20 to provide for commitment of such persons to any county work camp or county jail by
21 agreement with the appropriate county officials;

22 (17) Motor vehicles. To regulate the operation of motor vehicles and exercise control over
23 all traffic, including parking upon or across the streets, roads, alleys, and walkways of the
24 city;

25 (18) Municipal agencies and delegation of power. To create, alter, or abolish departments,
26 boards, offices, commissions, and agencies of the city, and to confer upon such agencies
27 the necessary and appropriate authority for carrying out all the powers conferred upon or
28 delegated to the same;

29 (19) Municipal debts. To appropriate and borrow money for the payment of debts of the
30 city and to issue bonds for the purpose of raising revenue to carry out any project, program,
31 or venture authorized by this charter or the laws of the State of Georgia;

32 (20) Municipal property ownership. To acquire, dispose of, lease, and hold in trust or
33 otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or
34 outside the property limits of the city;

1 (21) Municipal property protection. To provide for the preservation and protection of
2 property and equipment of the city and the administration and use of same by the public;
3 and to prescribe penalties and punishment for violations thereof;

4 (22) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose
5 of public utilities, including but not limited to a system of waterworks, sewers and drains,
6 sewage disposal, storm-water management, gas works, electric light plants, cable television
7 and other telecommunications, transportation facilities, public airports, and any other public
8 utility; to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties;
9 and to provide for the withdrawal of service for refusal or failure to pay the same;

10 (23) Nuisance. To define a nuisance and provide for its abatement whether on public or
11 private property;

12 (24) Penalties. To provide penalties for violation of any ordinances adopted pursuant to
13 the authority of this charter and the laws of the State of Georgia;

14 (25) Planning and zoning. To provide comprehensive city planning for city land use,
15 signage and outdoor advertising, and development by zoning; and to provide subdivision
16 regulation and the like as the city council deems necessary and reasonable to ensure a safe,
17 healthy, and aesthetically pleasing community;

18 (26) Police and fire protection. To exercise the power of arrest through duly appointed
19 police officers, and to establish, operate, or contract for a police and a fire-fighting agency;

20 (27) Public hazards; removal. To provide for the destruction and removal of any building
21 or other structure that is or may become dangerous or detrimental to the public;

22 (28) Public improvements. To provide for the acquisition, construction, building,
23 operation, and maintenance of public ways, parks and playgrounds, recreational facilities,
24 cemeteries, public buildings, libraries, public housing, parking facilities, and charitable,
25 cultural, educational, recreational, conservation, sport, detentional, penal, and medical
26 institutions, agencies, and facilities; to provide any other public improvements, inside or
27 outside the corporate limits of the city and to regulate the use of public improvements; and
28 for such purposes, property may be acquired by condemnation under Title 22 of the
29 O.C.G.A. or such other applicable laws as are or may hereafter be enacted;

30 (29) Public peace. To provide for the prevention and punishment of loitering, disorderly
31 conduct, drunkenness, riots, and public disturbances;

32 (30) Public transportation. To organize and operate such public transportation systems as
33 are deemed beneficial;

34 (31) Public utilities and services. To grant franchises or make contracts for, or impose
35 taxes on, public utilities and public service companies; and to prescribe the rates, fares,
36 regulations, and standards and conditions of service applicable to the service to be provided

1 by the franchise grantee or contractor, insofar as not in conflict with valid regulations of
2 the Public Service Commission;

3 (32) Regulation of roadside areas. To prohibit or regulate and control the erection,
4 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any and
5 all other structures or obstructions upon or adjacent to the rights of way of streets and roads
6 or within view thereof, within or abutting the corporate limits of the city; and to prescribe
7 penalties and punishment for violation of such ordinances;

8 (33) Retirement. To provide and maintain a retirement plan for officers and employees
9 of the city;

10 (34) Roadways. To lay out, open, extend, widen, narrow, establish or change the grade of,
11 abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise
12 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and
13 walkways within the corporate limits of the city; to grant franchises and rights of way
14 throughout the streets and roads and over the bridges and viaducts for the use of public
15 utilities; and to require real estate owners to repair and maintain in a safe condition the
16 sidewalks adjoining their lots or lands and to impose penalties for failure to do so;

17 (35) Sewer fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring,
18 constructing, equipping, operating, maintaining, and extending of a sewage disposal plant
19 and sewerage system; to levy on those to whom sewers and sewerage systems are made
20 available a sewer service fee, charge, or sewer tax for the availability or use of the sewers;
21 to provide for the manner and method of collecting such service charges and for enforcing
22 payment of the same; and to charge, impose, and collect a sewer connection fee or fees to
23 those connected with the system;

24 (36) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish,
25 and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by
26 others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper,
27 and other recyclable materials and to provide for the sale of such items;

28 (37) Special assessments. To levy and provide for the collection of special assessments
29 to cover the costs for any public improvements;

30 (38) Taxes: ad valorem. To levy and provide for the assessment, valuation, revaluation,
31 and collection of taxes on all property subject to taxation; provided, however, that:

32 (A) For all years, the millage rate imposed for ad valorem taxes on real property shall not
33 exceed 4.731 unless a higher limit is recommended by resolution of the city council and
34 approved by the qualified voters of the City of Dunwoody;

(B) For all years, the fair market value of all property subject to taxation shall be determined according to the tax digest of DeKalb County, as provided in Code Section 48-5-352 of the O.C.G.A.; and

(C) For all years, the billing date or dates and due date or due dates for municipal ad valorem taxes shall be the same as for DeKalb County ad valorem taxes;

(39) Taxes: other. To levy and collect such other taxes as may be allowed now or in the future by law;

(40) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the number of such vehicles; to require the operators thereof to be licensed; to require public liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to regulate the parking of such vehicles;

(41) Urban redevelopment. To organize and operate an urban redevelopment program; and

(42) Other powers. To exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the city and its inhabitants; to exercise all implied powers necessary or desirable to carry into execution all powers granted in this charter as fully and completely as if such powers were fully stated herein; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia; and any listing of particular powers in this charter shall not be held to be exclusive of others or restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

SECTION 1.04.

Exercise of powers.

All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or employees shall be carried into execution as provided by this Act. If this charter makes no provision, such shall be carried into execution as provided by ordinance or as provided by pertinent laws of the State of Georgia.

ARTICLE II

GOVERNMENT STRUCTURE, ELECTIONS, AND LEGISLATIVE BRANCH

SECTION 2.01.

City council creation; number; election, mayor.

(a) The legislative authority of the government of the City of Dunwoody, except as otherwise specifically provided in this Act, shall be vested in a city council to be composed of a mayor and six councilmembers.

(b) The city council of the City of Dunwoody shall consist of six members. For the purpose of electing the six councilmembers, there shall be three council districts, designated Council Districts 1 through 3, as described in Appendix B of this Act and the accompanying Redistricting Plan Components Report, which are attached to and made a part of this charter, and two posts in each council district. Two councilmembers shall be elected from each of the three council districts. Each person desiring to offer as a candidate for councilmember shall designate the council district and post for which he or she is offering. The candidate for each council district post who receives the largest number of votes of the qualified electors of the city at large at the elections of the city shall be elected to that post. Each candidate for election to the city council must reside in the council district he or she seeks to represent, but such districts shall be residency districts only and not voting districts.

(c) Councilmembers for each council district post shall be elected on a staggered basis in alternate election cycles such that every two years, one councilmember from each council district shall be elected.

(d) In order to assure staggered elections of the councilmembers, in the first election of the city council, the candidate elected from each council district who receives the most votes shall serve a term of five years and the candidate elected from each council district who receives the second most votes shall serve a term of office of three years and until their successors are elected and qualified; provided, however, that their respective terms shall expire upon the administration of the oath of office to their successors elected in the regular elections held in November, 2010 and 2012, respectively, as provided in Section 2.02 of this charter.

(e) The mayor of the City of Dunwoody shall be elected by a majority vote of the qualified electors of the city at large. In the event that no candidate for mayor obtains a majority vote of the qualified electors of the city at large, then the city shall hold a run-off election. The two candidates receiving the most votes shall be included in the run-off election, and the mayor shall be elected by a majority vote of the qualified electors of the city at large voting at such runoff election. The first elected mayor shall serve a term of five years and until his or her successor is elected and qualified; provided, however, that such mayor's term shall

1 expire upon the administration of the oath of office to his or her successor elected in the
2 regular election held in November 2012 as provided in Section 2.02 of this charter.

3 **SECTION 2.02.**

4 Mayor and councilmembers; terms and qualifications for office.

5 (a) Except as otherwise provided for the initial mayor and councilmembers in subsections
6 (d) and (e) of Section 2.01 of this charter, the mayor and councilmembers shall serve for
7 terms of four years and until their respective successors are elected, qualified, and
8 administered the oath of office. No person shall be eligible to serve as mayor or
9 councilmember unless that person shall have been a resident of the area comprising the
10 corporate limits of the City of Dunwoody for a continuous period of at least 12 months
11 immediately prior to the date of his or her election, shall continue to reside therein during that
12 person's period of service, and shall continue to be registered and qualified to vote in
13 municipal elections of the City of Dunwoody. In addition to the above requirements, no
14 person shall be eligible to serve as a councilmember representing a council district unless that
15 person has been a resident of the council district such person seeks to represent for a
16 continuous period of at least six months immediately prior to the date of the election for
17 councilmember and continues to reside in such council district during that person's term of
18 service.

19 (b) The mayor and each councilmember, for the first election and each subsequent election
20 for mayor and councilmember, shall be elected by the qualified electors of the city at large.

21 (c) The first election for mayor and councilmembers shall be a special election held on the
22 third Tuesday in June, 2007. At such election, the first mayor and councilmembers shall be
23 elected to serve for the initial terms of office specified in subsections (d) and (e) of Section
24 2.01 of this charter. Thereafter, the time for holding regular municipal elections shall be on
25 the Tuesday next following the first Monday in November of each even-numbered year
26 beginning in 2010. The successors to the first mayor and initial councilmembers and future
27 successors shall take office on the first day the successors are elected, qualified, and
28 administered oaths of office and shall serve for terms of four years.

29 (d) There shall be no limit to the number of successive terms an individual may hold the
30 position of mayor or councilmember.

31 **SECTION 2.03.**

32 Vacancy; filling of vacancies; suspensions.

(a) The office of mayor or councilmember shall become vacant upon the incumbent's death, resignation, forfeiture of office, or removal from office in any manner authorized by this Act or the general laws of the State of Georgia. The following shall result in an elected city official forfeiting his or her office: (1) Violating the provisions of this charter; (2) Being convicted of a felony or a crime of moral turpitude, or (3) Failing to attend one-third of the regular meetings of the council in a three-month period without being excused by the council.

(b) A vacancy in the office of mayor shall be filled for the remainder of the unexpired term by a special election if such vacancy occurs 12 months or more prior to the expiration of the term of that office. If such vacancy occurs within 12 months of the expiration of the term of that office, the city council or those members remaining shall appoint a successor for the remainder of the term. This provision shall also apply to a temporary vacancy created by the suspension from office of the mayor.

(c) A vacancy in the office of a councilmember shall be filled for the remainder of the unexpired term by a special election if such vacancy occurs 12 months or more prior to the expiration of the term of that office. If such vacancy occurs within 12 months of the expiration of the term of that office, the mayor shall appoint a successor for the remainder of the term subject to the approval of the city council or those members remaining. This provision shall also apply to a temporary vacancy created by the suspension from office of a councilmember.

SECTION 2.04.

Nonpartisan elections.

Political parties shall not conduct primaries for city offices and all names of candidates for city offices shall be listed without party designation.

SECTION 2.05.

Applicability of general laws; qualifying; other provisions.

All primaries and elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended. Except as otherwise provided by this Act, the city council shall, by ordinance or resolution, prescribe such rules and regulations as it deems appropriate, including but not limited to the establishment of qualifying fees, to fulfill any options and duties under Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

SECTION 2.06.

Compensation and expenses.

(a) The annual salary of the mayor shall be \$36,000.00 and the annual salary for each councilmember shall be \$18,000.00. Such salaries shall be paid from municipal funds in monthly installments. The mayor shall be provided an annual expense allowance of \$8,000.00 and each councilmember shall be provided an annual expense allowance of \$4,000.00 for the reimbursement of expenses actually and necessarily incurred in carrying out their official duties.

(b) The city council may provide by ordinance for the provision of insurance, retirement, workers' compensation, and other employee benefits to the mayor and councilmembers.

(c) For all years, the salary and expense allowances for the mayor and councilmembers are fixed at the amounts provided in subsection (a) of this section unless a higher amount is recommended by resolution of the city council and approved by a majority of the qualified voters of the City of Dunwoody.

SECTION 2.07.

Inquiries and investigations.

The city council may make inquiries and investigations into the affairs of the city and conduct of any department, office, or agency thereof and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the city council shall be punished as may be provided by ordinance.

SECTION 2.08.

Meetings and mayor pro tempore.

(a) The city council shall meet on the first working day in January immediately following each regular municipal election. The meeting shall be called to order by the mayor-elect and the oath of office shall be administered to the newly elected mayor and councilmembers collectively by a judicial officer authorized to administer oaths. The oath shall, to the extent that it comports with federal and state law, be as follows:

"I do solemnly swear or affirm that I will faithfully execute the office of [councilmember or mayor as the case may be] of the City of Dunwoody, and will to the best of my ability support and defend the Constitution of the United States, the Constitution of Georgia, and the charter,

1 ordinances, and regulations of the City of Dunwoody. I am not the holder of any
2 unaccounted for public money due this state or any political subdivision or authority thereof.
3 I am not the holder of any office of trust under the government of the United States, any other
4 state, or any foreign state which I by the laws of the State of Georgia am prohibited from
5 holding. I am otherwise qualified to hold said office according to the Constitution and laws
6 of Georgia. I have been a resident of my district and the City of Dunwoody for the time
7 required by the Constitution and laws of this state and by the municipal charter. I will
8 perform the duties of my office in the best interest of the City of Dunwoody to the best of my
9 ability without fear, favor, affection, reward, or expectation thereof."

10 (b) Following the induction of the mayor and councilmembers, the city council, by a
11 majority vote of the councilmembers, shall elect a councilmember to be mayor pro tempore,
12 who shall serve for a term of two years and until a successor is elected and qualified. There
13 shall be no limit to the number of successive terms an individual may hold the position of
14 mayor pro tempore.

15 (c) The mayor pro tempore shall assume the duties and powers of the mayor during the
16 mayor's temporary disability or absence. During the first six months of the mayor pro
17 tempore's assumption of the mayor's duties under this subsection, the mayor pro tempore
18 shall continue to vote as a councilmember and may not exercise the mayor's veto power or
19 power to cast a tie-breaking vote. Beyond the first six months of the mayor pro tempore's
20 assumption of the mayor's duties under this subsection, the mayor pro tempore shall
21 discontinue to vote as a councilmember and may exercise the mayor's veto power and power
22 to cast a tie-breaking vote. If the mayor pro tempore is absent because of sickness or
23 disqualification, any one of the remaining councilmembers, chosen by the councilmembers
24 present, shall be clothed with all the rights and privileges of the mayor as described herein
25 and shall perform the mayor's duties in the same manner as the mayor pro tempore.

26 (c) The city council shall, at least once a month, hold regular meetings at such times and
27 places as prescribed by ordinance. The city council may recess any regular meeting and
28 continue such meeting on any day or hour it may fix and may transact any business at such
29 continued meeting as may be transacted at any regular meeting.

30 (d) Special meetings of the city council may be held on the call of either the mayor and one
31 councilmember or three councilmembers. Notice of such special meetings shall be delivered
32 to all councilmembers and the mayor personally, by registered mail, or by electronic means
33 at least 24 hours in advance of the meeting. Such notice to councilmembers shall not be
34 required if the mayor and all councilmembers are present when the special meeting is called.
35 Such notice of any special meeting may be waived by the mayor or a councilmember in
36 writing before or after such a meeting and attendance at the meeting shall also constitute a

1 waiver of notice. The notice of such special meeting shall state what business is to be
2 transacted at the special meeting. Only the business stated in the call may be transacted at
3 the special meeting.

4 **SECTION 2.09.**

5 Quorum; voting; ordinances.

6 (a) Four councilmembers shall constitute a quorum and shall be authorized to transact
7 business for the city council. Voting on the adoption of ordinances shall be taken by voice
8 vote and the yeas and nays shall be recorded in the minutes, but on the request of any
9 member there shall be a roll-call vote. In order for any ordinance, resolution, motion, or
10 other action of the city council to be adopted, the measure must receive at least three
11 affirmative votes and must receive the affirmative votes of a majority of those voting. No
12 councilmember shall abstain from voting on any matter properly brought before the city
13 council for official action except when such councilmember has a conflict of interest which
14 is disclosed in writing prior to or at the meeting and made a part of the minutes. Any
15 councilmember present and eligible to vote on a matter and refusing to do so for any reason
16 other than a properly disclosed and recorded conflict of interest shall be deemed to have
17 acquiesced or concurred with the members of the majority who did vote on the question
18 involved. The mayor shall vote only in the case of a tie.

19 (b) The following types of actions shall require an ordinance in order to have the force and
20 effect of law:

- 21 (1) Adopting or amending an administrative code or establishing, altering, or abolishing
- 22 a department, office, or agency;
- 23 (2) Providing for fine or other penalty;
- 24 (3) Levying taxes;
- 25 (4) Granting, renewing, or extending a franchise;
- 26 (5) Regulating a rate for a public utility;
- 27 (6) Authorizing the borrowing of money;
- 28 (7) Conveying, leasing, or encumbering city land;
- 29 (8) Regulating land use and development; and
- 30 (9) Amending or repealing an ordinance already adopted.

31 (c) The city council shall establish by ordinance procedures for convening emergency
32 meetings. In an emergency, an ordinance can be passed without notice or hearings if the city
33 council passes the ordinance by three-fourths vote; provided, however that the city council
34 cannot in an emergency meeting:

- 1 (1) Levy taxes;
- 2 (2) Grant, renew, or extend a franchise;
- 3 (3) Regulate a rate for a public utility; or
- 4 (4) Borrow money.

5 **SECTION 2.10.**

6 General power and authority of the city council.

7 (a) Except as otherwise provided by law or by this charter, the city council shall be vested
8 with all the powers of government of the City of Dunwoody as provided by Article I of this
9 charter.

10 (b) In addition to all other powers conferred upon it by law, the city council shall have the
11 authority to adopt and provide for the execution of such ordinances, resolutions, rules, and
12 regulations, not inconsistent with this charter and the Constitution and the laws of the State
13 of Georgia, which it shall deem necessary, expedient, or helpful for the peace, good order,
14 protection of life and property, health, welfare, sanitation, comfort, convenience, prosperity,
15 or well-being of the inhabitants of the City of Dunwoody and may enforce such ordinances
16 by imposing penalties for violation thereof.

17 **SECTION 2.11.**

18 Administrative and service departments.

19 (a) Except for the offices of city manager, mayor, and councilmember and as otherwise
20 provide in this charter, the city council, by ordinance, may establish, abolish, merge, or
21 consolidate offices, positions of employment, departments, and agencies of the city as it shall
22 deem necessary for the proper administration of the affairs and government of the city. The
23 city council shall prescribe the functions and duties of existing departments, offices, and
24 agencies or of any departments, offices, and agencies hereinafter created or established; may
25 provide that the same person shall fill any number of offices and positions of employment;
26 and may transfer or change the functions and duties of offices, positions of employment,
27 departments, and agencies of the city.

28 (b) The operations and responsibilities of each department now or hereafter established in
29 the city shall be distributed among such divisions or bureaus as may be provided by
30 ordinance of the city council. Each department shall consist of such officers, employees, and
31 positions as may be provided by this charter or by ordinance and shall be subject to the
32 general supervision and guidance of the mayor and city council.

SECTION 2.12.**Prohibitions.**

(a) No elected official, appointed officer, or employee of the city or any agency or political entity to which this charter applies shall knowingly:

(1) Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties or which would tend to impair the independence of his or her judgment or action in the performance of official duties;

(2) Engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of official duties or would tend to impair the independence of his or her judgment or action in the performance of official duties;

(3) Disclose confidential information unless required under state law concerning the property, government, or affairs of the governmental body by which engaged without proper legal authorization or use such information to advance the financial or other private interest of himself or herself or others;

(4) Accept any valuable gift, whether in the form of service, loan, object, or promise, from any person, firm, or corporation which to his or her knowledge is interested, directly or indirectly, in any manner whatsoever in business dealings with the governmental body by which he or she is engaged; provided, however, that an elected official who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;

(5) Represent other private interests in any action or proceeding against this city or any portion of its government; or

(6) Vote or otherwise participate in the negotiation or in the making of any contract with any business or entity in which he or she has a financial interest.

(b) No elected official, appointed officer, or employee of the city who has any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city shall disclose such private interest to the city council. The mayor or any councilmember who has a private interest in any matter pending before the city council shall disclose such private interest and such disclosure shall be entered on the records of the city council, and he or she shall disqualify himself or herself from participating in any decision or vote relating thereto. The mayor or any councilmember, appointed officer, or employee of any agency or political entity to which this charter applies who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or

1 within such entity shall disclose such private interest to the governing body of such agency
2 or entity.

3 (c) No elected official, appointed officer, or employee of the city or any agency or entity to
4 which this charter applies shall use property owned by such governmental entity for personal
5 benefit, convenience, or profit, except in accordance with policies promulgated by the city
6 council or the governing body of such agency or entity.

7 (d) Any violation of this section which occurs with the knowledge, express or implied, of
8 a party to a contract or sale shall render said contract or sale voidable at the option of the city
9 council.

10 (e) Except as authorized by law, no member of the city council shall hold any other elective
11 city office or other city employment during the term for which elected. The provisions of this
12 subsection shall not apply to any person holding employment on the effective date of this
13 Act.

14 **SECTION 2.13.**

15 **Boards, commissions, and authorities.**

16 (a) All members of boards, commissions, and authorities of the city shall be appointed by
17 the mayor subject to confirmation by the city council for such terms of office and such
18 manner of appointment as provided by ordinance, except where other appointing authority,
19 term of office, or manner of appointment is prescribed by this charter or by applicable state
20 law.

21 (b) No member of any board, commission, or authority of the city shall hold any elective
22 office in the city. Councilmembers and the mayor, however, may serve as ex officio
23 members of such boards, commissions, or authorities, without a vote.

24 (c) Any vacancy in office of any member of a board, commission, or authority of the city
25 shall be filled for the unexpired term in the manner prescribed for original appointment,
26 except as otherwise provided by this charter or any applicable law of the State of Georgia.

27 (d) No member of any board, commission, or authority shall assume office until he or she
28 shall have executed and filed with the designated officer of the city an oath obligating
29 himself or herself to faithfully and impartially perform the duties of his or her office, such
30 oath to be prescribed by ordinance of the city council and administered by the mayor or a
31 judicial officer authorized to administer oaths.

32 (e) Any member of a board, commission, or authority may be removed from office for cause
33 by a vote of a majority of the councilmembers.

(f) Members of boards, commissions, and authorities may receive such compensation and expenses in the performance of their official duties as prescribed by ordinance.

(g) Except as otherwise provided by this charter or by applicable state law, each board, commission, or authority of the city government shall elect one of its members as chairperson and one member as vice chairperson for terms of one year and may elect as its secretary one of its own members or may appoint as secretary an employee of the city. Each board, commission, or authority of the city government may establish such bylaws, rules, and regulations not inconsistent with this charter, ordinances of the city, or applicable state law as it deems appropriate and necessary for the conduct of its affairs, copies of which shall be filed with the designated officer of the city.

SECTION 2.14.

Ordinance form; procedures.

(a) Every proposed ordinance and resolution shall be introduced in writing and the city council shall have the authority to approve, disapprove, or amend the same. A resolution may be passed at the time it is offered, but an ordinance shall not be adopted until the title of said ordinance shall have been read at two city council meetings, provided that the beginning of said meetings be not less than 24 hours nor more than 60 days apart. This requirement of two readings shall not apply to emergency ordinances, to ordinances adopted at the first business meeting of the city council in a calendar year, or to ordinances adopted at the first meeting of the initial city council as elected under subsection (d) of Section 2.01 of this charter. The catchlines of sections of this charter or any ordinance printed in boldface type, italics, or otherwise, are intended as mere catchwords to indicate the contents of the section, and:

(1) Shall not be deemed or taken to be titles of such sections or as any part of the section; and

(2) Shall not be so deemed when any of such sections, including the catchlines, are amended or reenacted unless expressly provided to the contrary.

Furthermore, the chapter, article, and section headings contained in this Act shall not be deemed to govern, limit, or modify or in any manner affect the scope, meaning, or intent of the provisions of any chapter, article, or section hereof.

(b) The city council may, by ordinance or resolution, adopt rules and bylaws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent councilmembers. Such rules may include punishment for contemptuous behavior conducted in the presence of the city council.

SECTION 2.15.

Submission of ordinances to the mayor.

(a) Every ordinance, resolution, and other action adopted by the city council shall be presented, within five business days of its passage by the city council, to the mayor for signature or veto. Except for city council approval of appointments to committees, boards, and commissions, the employment of any appointed officer, internal affairs, or matters which must be approved by the voters, the mayor may veto any action adopted by the city council.

(b) The mayor, within 15 business days following receipt of an ordinance, shall return the ordinance to the city clerk with or without the mayor's approval or with the mayor's veto.

If an ordinance has been approved by the mayor or if it is returned to the city clerk neither approved nor disapproved, it shall become law upon its return to the clerk. However, if the mayor fails to return an ordinance to the city clerk within 15 business days of receipt, it shall become law at 12:00 Midnight on the fifteenth business day after receipt. If the ordinance is vetoed by the mayor, the mayor shall submit to the city council, through the city clerk, the reasons for the mayor's veto. The city clerk shall record upon the ordinance the date of its delivery to and its receipt from the mayor.

(c) An action vetoed by the mayor shall automatically be on the agenda of the next regular meeting of the city council for reconsideration. The city council may override the mayor's veto by readopting the action by the affirmative votes of at least four councilmembers within 60 days of the veto. If the minimum number of councilmembers necessary to vote on overriding a veto are not present, then the action may be continued until the next meeting at which the minimum number of councilmembers are present.

(d) If an ordinance or resolution has been signed by the mayor, it shall become effective.

(e) Upon the expiration of the first mayoral term under this charter, the veto power set forth in this section shall automatically become null and void; provided, however, that such power may be permanently revived and reinstated upon recommendation by the members of the charter commission established under Section 6.04 of this charter if provided for by amendment to this charter.

ARTICLE III**EXECUTIVE BRANCH****SECTION 3.01.**

Powers and duties of the mayor.

(a) The mayor shall:

- 1 (1) Preside over all meetings of the city council;
- 2 (2) Serve as the ceremonial head of the city and as its official representative to federal,
- 3 state, and local governmental bodies and officials;
- 4 (3) Set the agenda for meetings of the city council after receiving input from members of
- 5 the city council, the city manager, and the public;
- 6 (4) Sign all orders, checks, and warrants for payment of money within a level of
- 7 authorization as established by the city council;
- 8 (5) Execute all contracts, deeds, and other obligations of the city within a level of
- 9 authorization as established by the city council;
- 10 (6) Vote in the case of a tie on matters before the city council as provided in subsection
- 11 (a) of Section 2.09 of this charter;
- 12 (7) Make all appointments of city officers as provided by this charter;
- 13 (8) Serve in a part-time capacity and be compensated pursuant to Section 2.06 of this
- 14 charter; and
- 15 (9) Perform any other duties and exercise any other powers required by state or federal law
- 16 or authorized by a duly adopted ordinance that is not in conflict with this charter.
- 17 (b) The mayor shall have the authority to transfer appropriations within a department, fund,
- 18 service, strategy, or organizational unit but only with approval of the city council.
- 19 (c) The mayor shall have the authority to certify that a supplemental appropriation is possible
- 20 due to unexpected revenue increases but only with approval of the city council.
- 21 (d) The mayor shall have veto power as provided in Section 2.15 of this charter.
- 22 (e) The mayor shall have all of the powers specifically granted to the mayor elsewhere in this
- 23 charter regardless of whether such powers are enumerated in this section.

24 **SECTION 3.02.**

25 City manager; appointment and qualification.

26 The mayor shall appoint, subject to confirmation by the city council, an officer whose title
27 shall be the "city manager." The city manager shall be appointed without regard to political
28 beliefs and solely on the basis of his or her education and experience in the accepted
29 competencies and practices of local government management.

30 **SECTION 3.03.**

31 City manager; chief administrative officer.

1 The city manager shall be the chief administrative officer of the government of the city. The
2 city manager must devote all of his or her working time and attention to the affairs of the city
3 and shall be responsible to the mayor and city council for the proper and efficient
4 administration of the affairs of the city over which said officer has jurisdiction.

5 **SECTION 3.04.**

6 City manager; powers and duties enumerated.

7 The city manager shall have the power, and it shall be his or her duty to:

8 (1) See that all laws and ordinances are enforced;

9 (2) Appoint and employ all necessary employees of the city, provided that excepted from
10 the power of this appointment are those officers and employees who by this charter are
11 appointed or elected by the mayor and the city council or departments not under the
12 jurisdiction of the city manager;

13 (3) Remove employees employed by said officer without the consent of the city council
14 and without assigning any reason therefore;

15 (4) Exercise supervision and control of all departments and all divisions created in this
16 charter or that may hereafter be created by the city council except as otherwise provided
17 in this charter;

18 (5) Attend all meetings of the city council, without a right to vote, but with a right to take
19 part in the discussions as seen fit by the mayor; provided, however, that regardless of the
20 decision of the mayor, the city manager may take part in any discussion and report on any
21 matter requested and approved by the city council at such meeting. The city manager shall
22 be entitled to notice of all special meetings;

23 (6) Recommend to the city council, after prior review and comment by the mayor, for
24 adoption such measures as the city manager may deem necessary or expedient;

25 (7) See that all terms and conditions imposed in favor of the city or its inhabitants in any
26 public utility franchise are faithfully kept and performed and upon knowledge of any
27 violation thereof to call the same to the attention of the city attorney, whose duty it shall
28 be forthwith to take such steps as are necessary to protect and enforce the same;

29 (8) Make and execute all lawful contracts on behalf of the city as to matters within said
30 officer's level of authorization as established by the city council to the extent that such
31 contracts are funded in the city's budget, except such as may be otherwise provided by law;
32 provided, however, that no contract purchase or obligation requiring a budget amendment
33 shall be valid and binding until after approval of the city council;

(9) Sign all orders, checks, and warrants for payment of money within said officer's level of authorization as established by the city council to the extent that such contracts are funded in the city's budget, except such as may be otherwise provided by law; provided, however, that no such order, check, or warrant requiring a budget amendment shall be valid and binding until after approval of the city council;

(10) Act as budget officer to prepare and submit to the city council, after review and comment by the mayor, prior to the beginning of each fiscal year a budget of proposed expenditures for the ensuing year, showing in as much detail as practicable the amounts allotted to each department of the city government and the reasons for such estimated expenditures;

(11) Keep the city council at all times fully advised as to the financial condition and needs of the city;

(12) Make a full written report to the city council on the first of each month showing the operations and expenditures of each department of the city government for the preceding month, and a synopsis of such reports shall be published by the city clerk;

(13) Fix all salaries and compensation of city employees in accordance with the city budget and the city pay and classification plan; and

(14) Perform such other duties as may be prescribed by this charter or required by ordinance or resolution of the city council.

SECTION 3.05.

City council interference with administration.

Except for the purpose of inquiries and investigations under Section 2.07 of this charter, the city council or its members shall deal with city officers and employees who are subject to the direction or supervision of the city manager solely through the city manager, and neither the city council nor its members shall give orders to any such officer or employee, either publicly or privately.

SECTION 3.06.

City manager; removal.

(a) The mayor and city council may remove the city manager from office in accordance with the following procedures:

(1) The city council shall adopt by affirmative vote of a majority of all its members a preliminary resolution removing the city manager and may suspend the city manager from

1 duty for a period not to exceed 45 days. A copy of the resolution shall be delivered
2 promptly to the city manager;

3 (2) Within five days after a copy of the resolution is delivered to the city manager, he or
4 she may file with the city council a written request for a public hearing. This hearing shall
5 be held at a city council meeting not earlier than 15 days or later than 30 days after the
6 request is filed. The city manager may file with the city council a written reply not later
7 than five days before the hearing; and

8 (3) The city council may adopt a final resolution of removal, which may be made effective
9 immediately, by affirmative vote of four of its members at any time after five days from the
10 date when a copy of the preliminary resolution was delivered to the city manager, if he or
11 she has not requested a public hearing, or at any time after the public hearing if he or she
12 has requested one.

13 (b) The city manager shall continue to receive his or her salary until the effective date of a
14 final resolution of his or her removal. The action of the city council in suspending or
15 removing the city manager shall not be subject to review by any court or agency.

16 (c) If the city manager becomes disabled and is unable to carry out the duties of the office
17 or if the city manager dies, the acting city manager shall perform the duties of the city
18 manager until the city manager's disability is removed or until the city manager is replaced.
19 Removal of the city manager because of disability shall be carried out in accordance with the
20 provisions of subsection (a) of this section.

21 **SECTION 3.07.**

22 Acting city manager.

23 (a) The mayor with the approval of the city council may appoint any administrative
24 employee of the city to exercise all powers, duties, and functions of the city manager during
25 the city manager's temporary absence from the city or during the city manager's disability.

26 (b) In the event of a vacancy in the office of city manager, the mayor may designate with the
27 approval of the city council a person as acting city manager, who shall exercise all powers,
28 duties, and functions of the city manager until a city manager is appointed.

29 **SECTION 3.08.**

30 City attorney or attorneys.

31 The mayor shall appoint the city attorney or attorneys together with such assistant city
32 attorneys as may be deemed appropriate subject to confirmation by the city council and shall

1 provide for the payment of such attorney or attorneys for services rendered to the city. The
2 city attorney or attorneys shall be responsible for representing and defending the city in all
3 litigation in which the city is a party; may be the prosecuting officer in the municipal court;
4 shall attend the meetings of the city council as directed; shall advise the city council, mayor,
5 other officers, and employees of the city concerning legal aspects of the city's affairs; and
6 shall perform such other duties as may be required by virtue of their position as city
7 attorneys. The city attorney or attorneys shall review all contracts of the city but shall not
8 have the power to bind the city.

9 **SECTION 3.09.**

10 City clerk.

11 The mayor may appoint a city clerk subject to confirmation by the city council to keep a
12 journal of the proceedings of the city council; to maintain in a safe place all records and
13 documents pertaining to the affairs of the city; and to perform such duties as may be required
14 by law or ordinance or as the mayor or city manager may direct.

15 **SECTION 3.10.**

16 Tax collector.

17 The mayor may appoint a tax collector subject to confirmation by the city council to collect
18 all taxes, licenses, fees, and other moneys belonging to the city subject to the provisions of
19 this charter and the ordinances of the city; and the tax collector shall diligently comply with
20 and enforce all general laws of Georgia relating to the collection, sale, or foreclosure of taxes
21 by municipalities.

22 **SECTION 3.11.**

23 City accountant.

24 The mayor may appoint a city accountant subject to confirmation by the city council to
25 perform the duties of an accountant.

26 **SECTION 3.12.**

27 City internal auditor.

1 The city council shall appoint an internal auditor to audit the financial records and
2 expenditures of city funds and to report the results of such audits in writing to the city council
3 at times and intervals set by the city council but no less than quarterly. Such audit reports
4 shall, at a minimum, identify all city expenditures and other financial matters that the internal
5 auditor determines are not in compliance with or cannot conclusively be determined to be in
6 compliance with the provisions of this charter, the applicable city budget, and applicable
7 ordinances, resolutions, or other actions duly adopted or approved under the provisions of
8 this charter.

9 **SECTION 3.13.**

10 Consolidation of functions.

11 The city manager, with the approval of the city council, may consolidate any two or more of
12 the positions of city clerk, city tax collector, and city accountant, or any other positions or
13 may assign the functions of any one or more of such positions to the holder or holders of any
14 other positions. The city manager may also, with the approval of the city council, perform
15 all or any part of the functions of any of the positions or offices in lieu of the appointment
16 of other persons to perform the same.

17 **SECTION 3.14.**

18 Position classification and pay plans; employment at will.

19 The city manager shall be responsible for the preparation of a position classification and a
20 pay plan which shall be submitted to the city council for approval. Said plan may apply to
21 all employees of the City of Dunwoody and any of its agencies and offices. When a pay plan
22 has been adopted by the city council, neither the city council nor the city manager shall
23 increase or decrease the salaries of individual employees except in conformity with such pay
24 plan or pursuant to an amendment of said pay plan duly adopted by the city council. Except
25 as otherwise provided in this charter, all employees of the city shall be subject to removal or
26 discharge, with or without cause, at any time.

27 **ARTICLE IV**

28 **MUNICIPAL COURT**

29 **SECTION 4.01.**

30 Creation.

1 There is established a court to be known as the Municipal Court of the City of Dunwoody
2 which shall have jurisdiction and authority to try offenses against the laws and ordinances
3 of said city and to punish for a violation of the same. Such court shall have the power to
4 enforce its judgments by the imposition of such penalties as may be provided by law,
5 including ordinances of the city; to punish witnesses for nonattendance and to punish also
6 any person who may counsel or advise, aid, encourage, or persuade another whose testimony
7 is desired or material in any proceeding before said court to go or move beyond the reach of
8 the process of the court; to try all offenses within the territorial limits of the city constituting
9 traffic cases which, under the laws of Georgia, are placed within the jurisdiction of municipal
10 courts to the extent of, and in accordance with, the provisions of such laws and all laws
11 subsequently enacted amendatory thereof. Said court shall be presided over by the judge of
12 said court. In the absence or disqualification of the judge, the judge pro tempore shall
13 preside and shall exercise the same powers and duties as the judge when so acting.

14 **SECTION 4.02.**

15 **Judges.**

16 (a) No person shall be qualified or eligible to serve as judge unless he or she shall have
17 attained the age of 21 years and shall have been a member of the State Bar of Georgia for a
18 minimum of three years. The judge or judges shall be appointed by the mayor subject to
19 approval by the city council. The compensation and number of the judges shall be fixed by
20 the city council.

21 (b) The judge pro tempore shall serve as requested by the judge or judges, shall have the
22 same qualifications as the judge or judges, shall be appointed by resolution of the city
23 council, and shall take the same oath as the judge or judges.

24 (c) Before entering on duties of the office, the judge or judges and judge pro tempore shall
25 take an oath before an officer duly authorized to administer oaths in this state declaring that
26 he or she will truly, honestly, and faithfully discharge the duties of the office to the best of
27 his or her ability without fear, favor, or partiality. The oath shall be entered upon the minutes
28 of the city council.

29 (d) The judge, judges, or judge pro tempore, shall serve for a term of four years but may be
30 removed from the position by a two-thirds vote of the entire membership of the city council
31 or upon action taken by the State Judicial Qualifications Commission for:

- 32 (1) Willful misconduct in office;
- 33 (2) Willful and persistent failure to perform duties;
- 34 (3) Habitual intemperance;

(4) Conduct prejudicial to the administration of justice which brings the judicial office into disrepute; or

(5) Disability seriously interfering with the performance of duties, which is, or is likely to become, of a permanent character.

SECTION 4.03.

Convening.

The municipal court shall be convened at such times as designated by ordinance or at such times as deemed necessary by the judge or judges to keep current the dockets thereof.

SECTION 4.04.

Jurisdiction; powers.

(a) The municipal court shall try and punish for crimes against the City of Dunwoody and for violation of its ordinances. The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$200.00 or imprisonment for 15 days. The municipal court may fix punishment for offenses within its jurisdiction to the fullest extent allowed by state law.

(b) The municipal court shall have authority to establish a schedule of fees to defray the cost of operation.

(c) The municipal court shall have authority to establish bail and recognizances to insure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as security for appearances of persons charged with violations. Whenever any person shall give bail for his or her appearance and shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge presiding at such time and an execution issued thereon by serving the defendant and his or her sureties with a rule nisi at least two days before a hearing on the rule nisi. In the event that cash or property is accepted in lieu of bond for security for the appearance of a defendant at trial, and if such defendant fails to appear at the time and place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited to the City of Dunwoody, or the property so deposited shall have a lien against it for the value forfeited.

(d) The municipal court shall have the authority to bind prisoners over to the appropriate court when it appears, by probable cause, that a state law has been violated.

(e) The municipal court shall have the authority to administer oaths and to perform all other acts necessary or proper to the conduct of said court.

(f) The municipal court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summons, subpoena, and warrants which may be served as executed by any officer as authorized by this charter or by state law.

(g) The municipal court is specifically vested with all of the judicial jurisdiction and judicial powers throughout the entire area of the city of Dunwoody granted by state laws generally to municipal courts, and particularly by such laws as authorize the abatement of nuisances.

SECTION 4.05.

Certiorari.

The right of certiorari from the decision and judgment of the municipal court shall exist in all criminal cases and ordinance violation cases, and such certiorari shall be obtained under the sanction of a judge of the Superior Court of DeKalb County under the laws of the State of Georgia regulating the granting and issuance of writs of certiorari.

SECTION 4.06.

Rules for court.

With the approval of the city council, the judge or judges shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court.

ARTICLE V

FINANCE AND FISCAL

SECTION 5.01.

Fiscal year.

The city council shall set the fiscal year by ordinance. Said fiscal year shall constitute the budget year and the year for financial accounting and reporting of each and every office, department or institution, agency, and activity of the city government, unless otherwise provided by state or federal law.

SECTION 5.02.

Preparation of budgets.

1 The city council shall provide, by ordinance, the procedures and requirements for the
2 preparation and execution of an annual operating budget and a capital improvement program
3 and a capital budget, including requirements as to the scope, content, and form of such
4 budgets and programs.

5 **SECTION 5.03.**

6 Submission of operating budget to city council.

7 (a) On or before a date fixed by the city council, but no later than the first day of the ninth
8 month of the fiscal year currently ending, the city manager shall, after input, review and
9 comment by the mayor, submit to the city council a proposed operating budget for the
10 ensuing fiscal year. The budget shall be accompanied by a message from the mayor and city
11 manager containing a statement of the general fiscal policies of the city, the important
12 features of the budget, explanations of major changes recommended for the next fiscal year,
13 a general summary of the budget, and such other comments and information they may deem
14 pertinent. The operating budget and the capital improvements budget hereinafter provided
15 for, the budget message, and all supporting documents shall be filed in the office of the city
16 manager and shall be open to public inspection.

17 (b)(1) Beginning in the third year of the city's operation, the city manager and mayor are
18 required to present to the city council a budget which is balanced in projected spending and
19 revenues based on projected revenues equal to 98 percent of the prior year's actual
20 revenues normalized to exclude nonreoccurring revenues.

21 (2) Prior to passage, the city council shall hold a special public hearing at which the budget
22 shall be presented and public comment on the budget shall be solicited. The date, time, and
23 place of the special public hearing shall be announced no less than 30 days prior to the
24 scheduled date for such hearing.

25 (3) All unencumbered balances of appropriations in the current operating budget at the end
26 of the fiscal year shall lapse into the unappropriated surplus or reserves of the fund or funds
27 from which such appropriations were made. When a supplemental appropriation is certified
28 to exist, these appropriations may be spent during the current fiscal year following passage
29 of a supplemental appropriation ordinance.

30 **SECTION 5.04.**

31 Action by city council on budget.

(a) The city council may amend the operating budget proposed by the city manager, except that the budget, as finally amended and adopted, must provide for all expenditures required by law or by other provisions of this charter and for all debt service requirements for the ensuing fiscal year; and the total appropriations from any fund shall not exceed the estimated fund balance, reserves, and revenues constituting the fund availability of such fund.

(b) The city council shall adopt a budget on or before the first day of the tenth month of the fiscal year currently ending for the upcoming fiscal year. If the city council fails to adopt a budget by the prescribed deadline, a budget proposed by the mayor shall be adopted automatically.

SECTION 5.05.

Audits.

(a) There shall be an annual independent audit of all city accounts, funds, and financial transactions by a certified public accountant selected by the city council. The audit shall be conducted according to generally accepted accounting principles. Any audit of any funds by the state or federal government may be accepted as satisfying the requirements of this charter. Copies of all audit reports shall be available at printing cost to the public.

(b) As a minimum, all audits and budgets of the city shall satisfy the requirements of Chapter 81 of Title 36 of the O.C.G.A. relating to local government audits and budgets.

SECTION 5.06.

Homestead exemptions.

Any homestead exemptions applicable to ad valorem taxes levied by the city shall be as provided by Act of the General Assembly pursuant to Article VII, Section II, Paragraph II of the Georgia Constitution.

ARTICLE VI

GENERAL PROVISIONS.

SECTION 6.01.

Referendum and initial election.

(a) Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of DeKalb County shall call a special election for the purpose of submitting this Act to the qualified voters of the proposed City of Dunwoody for approval or rejection.

1 The superintendent shall set the date of such election for the third Tuesday in March, 2007.
2 The superintendent shall issue the call for such election at least 30 days prior to the date
3 thereof. The superintendent shall cause the date and purpose of the election to be published
4 once a week for two weeks immediately preceding the date thereof in the official organ of
5 DeKalb County. The ballot shall have written or printed thereon the words:

6 "() YES Shall the Act incorporating the City of Dunwoody in DeKalb County according
7 () NO to the charter contained in the Act be approved?"

8 All persons desiring to vote for approval of the Act shall vote "Yes," and those persons
9 desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes
10 cast on such question are for approval of the Act, it shall become of full force and effect as
11 provided in Section 6.02 of this charter, otherwise it shall be void and of no force and effect.
12 The initial expense of such election shall be borne by DeKalb County. Within two years after
13 the elections if the incorporation is approved, the City of Dunwoody shall reimburse DeKalb
14 County for the actual cost of printing and personnel services for such election and for the
15 initial election of the mayor and councilmembers pursuant to this charter. It shall be the duty
16 of the superintendent to hold and conduct such election. It shall be his or her further duty to
17 certify the result thereof to the Secretary of State.

18 (b) For the purposes of the referendum election provided for in subsection (a) of this section
19 and for the purposes of the special election of the City of Dunwoody to be held on the third
20 Tuesday in June, 2007, the qualified electors of the City of Dunwoody shall be those
21 qualified electors of DeKalb County residing within the corporate limits of the City of
22 Dunwoody as described by Appendix A of this charter. At subsequent municipal elections,
23 the qualified electors of the City of Dunwoody shall be determined pursuant to the authority
24 of Chapter 2 of Title 21 of the O.C.G.A. known as the "Georgia Election Code."

25 (c) Only for the purposes of holding and conducting the referendum election provided for
26 in subsection (a) of this section and holding and conducting the special election of the City
27 of Dunwoody to be held on the third Tuesday in June, 2007, the election superintendent of
28 DeKalb County is vested with the powers and duties of the election superintendent of the
29 City of Dunwoody and the powers and duties of the governing authority of the City of
30 Dunwoody.

31 **SECTION 6.02.**

32 Effective dates and transition.

33 (a) Sections 1.01 and 1.02 of this Act and those provisions of this Act necessary for the
34 referendum election provided for in Section 6.01 of this Act shall become effective

1 immediately upon this Act's approval by the Governor or upon its becoming law without
2 such approval.

3 (b) Those provisions of this Act necessary for the special election provided for in Section
4 2.01 of this charter shall be effective upon the certification of the results of the referendum
5 election provided for by Section 6.01 of this charter if this Act is approved at such
6 referendum election.

7 (c) The remaining provisions of this Act shall become of full force and effect for all
8 purposes at 12:00 Midnight on December 31, 2007, except that the initial mayor and
9 councilmembers shall take office immediately following their election and by action of a
10 quorum may prior to 12:00 Midnight on December 31, 2007, meet and take actions binding
11 on the city.

12 (d) A period of time will be needed for an orderly transition of various government functions
13 from DeKalb County to the City of Dunwoody. Accordingly there shall be a transition period
14 beginning on the date the initial mayor and councilmembers take office under this charter,
15 and ending at 12:00 Midnight on December 31, 2008. During such transition period, all
16 provisions of this charter shall be effective as law, but not all provisions of this charter shall
17 be implemented.

18 (e) During such transition period, DeKalb County shall continue to provide within the
19 territorial limits of the city all government services and functions which DeKalb County
20 provided in that area during the years 2006 and 2007 and at the same actual cost, except to
21 the extent otherwise provided in this section; provided, however, that upon at least 60 days'
22 prior written notice to DeKalb County by the City of Dunwoody, responsibility for any such
23 service or function shall be transferred to the City of Dunwoody. Beginning December 1,
24 2008, the City of Dunwoody shall collect taxes, fees, assessments, fines and forfeitures, and
25 other moneys within the territorial limits of the city in the same manner as authorized
26 immediately prior to the effective date of this section; provided, however, that upon at least
27 60 days' prior written notice to DeKalb County by the City of Dunwoody, the authority to
28 collect any tax, fee, assessment, fine or forfeiture, or other moneys shall remain with DeKalb
29 County after December 1, 2008, until such time as DeKalb County receives subsequent
30 notice from the City of Dunwoody that such authority shall be transferred to the City of
31 Dunwoody.

32 (f) During the transition period, the governing authority of the City of Dunwoody:

- 33 (1) Shall hold regular meetings and may hold special meetings as provided in this charter;
- 34 (2) May enact ordinances and resolutions as provided in this charter;
- 35 (3) May amend this charter by home rule action as provided by general law;
- 36 (4) May accept gifts and grants;

(5) May borrow money and incur indebtedness to the extent authorized by this charter and general law;

(6) May levy and collect an ad valorem tax for calendar years 2007 and 2008;

(7) May establish a fiscal year and budget;

(8) May create, alter, or abolish departments, boards, offices, commissions, and agencies of the city; appoint and remove officers and employees; and exercise all necessary or appropriate personnel and management functions; and

(9) May generally exercise any power granted by this charter or general law, except to the extent that a power is specifically and integrally related to the provision of a governmental service, function, or responsibility not yet provided or carried out by the city.

(g) Except as otherwise provided in this section, during the transition period, the Municipal Court of the City of Dunwoody shall not exercise its jurisdiction. During the transition period, all ordinances of DeKalb County shall remain applicable within the territorial limits of the city and the appropriate court or courts of DeKalb County shall retain jurisdiction to enforce such ordinances. However, by mutual agreement and concurrent resolutions and ordinances if needed DeKalb County and the City of Dunwoody may during the transition period transfer all or part of such regulatory authority and the appropriate court jurisdiction to the City of Dunwoody. Any transfer of jurisdiction to the City of Dunwoody during or at the end of the transition period shall not in and of itself abate any judicial proceeding pending in DeKalb County or the pending prosecution of any violation of any ordinance of DeKalb County.

(h) During the transition period, the governing authority of the City of Dunwoody may at any time, without the necessity of any agreement by DeKalb County, commence to exercise its planning and zoning powers; provided, however, that the city shall give the county notice of the date on which the city will assume the exercise of such powers. Upon the governing authority of the City of Dunwoody commencing to exercise its planning and zoning powers, the Municipal Court of the City of Dunwoody shall immediately have jurisdiction to enforce the planning and zoning ordinances of the city. The provisions of this subsection shall control over any conflicting provisions of any other subsection of this section.

(i) Effective upon the termination of the transition period, subsections (b) through (h) of this section shall cease to apply except for the last sentence of subsection (g) which shall remain effective. Effective upon the termination of the transition period, the City of Dunwoody shall be a full functioning municipal corporation and subject to all general laws of this state.

SECTION 6.03.

Directory nature of dates.

1 It is the intention of the General Assembly that this Act be construed as directory rather than
2 mandatory with respect to any date prescribed in this Act. If it is necessary to delay any
3 action called for in this Act for providential cause, delay in securing approval under the
4 federal Voting Rights Act, or any other reason, it is the intention of the General Assembly
5 that the action be delayed rather than abandoned. Any delay in performing any action under
6 this Act, whether for cause or otherwise, shall not operate to frustrate the overall intent of
7 this Act. Without limiting the generality of the foregoing it is specifically provided that:

8 (1) If it is not possible to hold the referendum election provided for in Section 6.01 of this
9 Act on the date specified in that section, then such referendum shall be held as soon
10 thereafter as is reasonably practicable; and

11 (2) If it is not possible to hold the first election provided for in Section 2.02 of this Act on
12 the date specified in that section, then there shall be a special election for the initial
13 members of the governing authority to be held as soon thereafter as is reasonably
14 practicable, and the commencement of the initial terms of office shall be delayed
15 accordingly.

16 **SECTION 6.04.**

17 Charter commission.

18 At the first regularly scheduled city council meeting, five years after the inception of the City
19 of Dunwoody, the mayor and city council shall call for a charter commission to review the
20 city's experience and recommend to the General Assembly any changes to the charter.
21 Members of the charter commission shall be appointed as follows: one by the mayor, one by
22 the city council, and one by each member of the Georgia House of Representatives and
23 Senate whose district lies wholly or partially within the corporate boundaries of the city. All
24 members of the charter commission must reside in the City of Dunwoody. The commission
25 must complete the recommendations within six months of its creation.

26 **SECTION 6.05.**

27 Severability.

28 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
29 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
30 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full
31 force and effect, as if the section, subsection, sentence, clause, or phrase so declared or

1 adjudged invalid or unconstitutional were not originally a part hereof. The General
2 Assembly hereby declares that it would have passed the remaining parts of this Act if it had
3 known that such part or parts hereof would be declared or adjudged invalid or
4 unconstitutional.

5 **SECTION 6.06.**

6 Repealer.

7 All laws and parts of laws in conflict with this Act are repealed.

8 **APPENDIX A**

9 The corporate limits of the City of Dunwoody shall consist of the following described
10 territory of DeKalb County:

11 The Boundaries for the Proposed City Limits of Dunwoody

12 The proposed Dunwoody City Boundary will be contiguous with the existing DeKalb/Fulton
13 County lines for its entire westerly and northerly borders and the DeKalb/Gwinnett County
14 line for its eastern boundary. The southern boundary will predominantly be along I-285 and

1 State Route 141, Peachtree Industrial Boulevard, with variations in the southeast corner with
2 the city of Doraville. The following is a metes and bounds description of the proposed city
3 limits of Dunwoody, DeKalb County, Georgia:

4 Commencing at the intersection of DeKalb/Fulton County line on Land Lot line 17/329
5 and the northern right of way line of I-285 in the vicinity of an unnamed creek in Land Lot
6 329, said point to be considered as the Point of Beginning; thence proceeding northerly on
7 the DeKalb/Fulton County line for a distance of approximately 19,300 feet plus or minus to
8 the corner of Land Lots 378, 384, 24, and 23; thence along the northern DeKalb/Fulton
9 county line proceeding easterly on Land Lot line 384 and 378 for a distance of 200 feet, plus
10 or minus, to a point on the Land Lot line; thence the DeKalb/Fulton County line proceeds
11 southeasterly for a distance of 800 feet, plus or minus, to a point in Land Lot 378; thence
12 continuing on the DeKalb/Fulton County line, northeasterly for a distance of 2,000 feet, plus
13 or minus, to a point in Wynterhall Subdivision in Land Lot 384; thence southeasterly on the
14 DeKalb/Fulton County line 300 feet, plus or minus, to a point in the Wynterhall Subdivision
15 in Land Lot 384; thence northeasterly along the DeKalb/Fulton County line 1,000 feet, plus
16 or minus, to a point considered to be the center line of Dunwoody Club Drive in Land Lot
17 384; thence the DeKalb/Fulton County line proceeds southeasterly along the center line of
18 Dunwoody Club Drive for a distance of 19,000 feet, plus or minus, to a point in the
19 intersection of Dunwoody Club Drive and Happy Hollow Road in Land Lot 311; thence the
20 DeKalb/Fulton County line proceeds northeasterly approximately 1,000 feet, plus or minus,
21 to corner of DeKalb/Fulton/ Gwinnett County lines in Land Lot 311; thence southerly on the
22 DeKalb/Gwinnett County line for a distance of 1,300 feet, plus or minus, to a point in Land
23 Lot 307; thence northeasterly along the DeKalb/Gwinnett County line for a distance of 1,500
24 feet, plus or minus, to a point in Mayfair Park Subdivision, Land Lot 306; thence
25 southeasterly on the DeKalb/Gwinnett County line, a distance of 3,500 feet, plus or minus,
26 to a point in the vicinity of Lockridge Forest Subdivision, Land Lot 281; thence
27 southwesterly along the DeKalb/Gwinnett County line for a distance of 2,500 feet, plus or
28 minus, to a point in the vicinity of Four Oaks Subdivision in Land Lot 280; thence
29 southeasterly along the DeKalb/Gwinnett County line for a distance of 5,500 feet, plus or
30 minus, generally along the Winters Chapel Road to a point in State Route 141, Peachtree
31 Industrial Boulevard, Rights of Way in Land Lot 277; thence southwesterly within State
32 Route 141, P.I.B., Rights of Way, a distance of 3,500 feet, plus or minus, to a point of
33 intersection with the Doraville City limits in Land Lot 356; thence westerly along the
34 Doraville City line and Land Lot line 356,341, a distance of 2,400 feet, plus or minus, to a
35 point on the western right of way line of Tilly Mill Road; thence southerly along the western
36 right of way of Tilly Mill Road and the Doraville City limits, a distance of 1,300 feet, plus

1 or minus, to a point on the northern right of way line of State Route 141 and the southeastern
2 corner of Parcel 65 in Land lot 342; thence southwesterly along the right of way of State
3 Route 141, a distance of 350 feet, plus or minus, to a point at the corner of Parcels 65 and 58
4 in Land Lot 342; thence westerly along the back property lines of Parcels 65, 58, 57, 56, and
5 55 within Land Lot 342 for a distance of 250 feet, plus or minus, to a point in the center line
6 of Nancy Creek; thence westerly along the back property lines of Parcels 64, and 54 through
7 42 for a distance of 900 feet, plus or minus, and along Nancy Creek to a point in Parcel 41
8 and the northwest corner of Parcel 42; thence northerly along the common line between
9 Parcels 41 and 64 for a distance of 150 feet, plus or minus, to a point on the back property
10 line of Parcel 117; thence westerly along the common back property lines of Parcels 41 and
11 40 with 117, 118, 137, 138, and 139 for a distance of 450 feet, plus or minus; thence
12 southerly along the back property lines of Parcels 40, 39, and 38 for a distance 600 feet, plus
13 or minus, to a point in the northwest corner of Parcels 38 and 37; thence southeasterly along
14 the back property lines of Parcels 37, 36, 35, 34, 33, 32, 31, 30, 29, 28, and 27 for a distance
15 of approximately 1,000 feet, plus or minus, to a point on the Doraville City limits and the
16 Land Lot line of 342 and 335; thence westerly along the Doraville City limits in Land Lot
17 line 342 and 335 for a distance of 950 feet, plus or minus, to a point in the corner of Land
18 Lots 342, 343, 334, and 335; thence southerly along the Doraville City limits and Land Lot
19 line 334, 335, a distance of 500 feet, plus or minus, to a point of intersection on the northern
20 right of way line of I-285 in Land Lot 334; thence northwesterly along the northern right of
21 way of I-285 in Land Lots 334 and 343 for a distance of 3,000 feet, plus or minus, to a point
22 on the southwestern corner of Parcel 3 in Land Lot 343 on the southeast corner of North
23 Peachtree Road; thence southerly along the I-285 Control of Access line to the crossing of
24 the West bound off ramp with the intersection of North Peachtree Road for a distance of
25 approximately 50 feet, plus or minus; thence westerly crossing North Peachtree Road to a
26 point of I-285 Control of Access line and the southerly right of way line of Cotillion Drive
27 for a distance of approximately 100 feet, plus or minus; thence westerly along the I-285
28 Control of Access line and southern right of way line of Cotillion Drive to the intersection
29 of Cotillion Drive and Chamblee Dunwoody Road and the Control of Access line for the
30 westbound on-ramp to I-285, a distance of 5,000 feet, plus or minus; thence northerly on the
31 Control of Access line of the on ramp at Chamblee Dunwoody Road to the northern right of
32 way line for I-285, for a distance of 100 feet, plus or minus; thence westerly along the
33 northern right of way of I-285 through the I-285 interchange and Control of Access line with
34 Ashford Dunwoody Road, a distance of 10,000 feet, plus or minus, to the Point of Beginning,
35 on the DeKalb/Fulton County line, for a proposed boundary distance of "x" miles and an
36 area of "y" square miles.

APPENDIX B

Council Districts 1 through 3 shall consist of the described territory of the City of Dunwoody attached to this Act and made a part thereof and further identified as "Plan name: dunwoodyp2 Plan Type: Local User: Blake Administrator: S040."

When used in such attachment, the terms "Tract" and "BG" (Block Group) shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. The separate numeric designations in a Tract description which are underneath a "BG" heading shall mean and describe individual Blocks within a Block Group as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. Any part of the City of Dunwoody which is not included in any such district described in that attachment shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia. Any part of the City of Dunwoody which is described in that attachment as being in a particular district shall nevertheless not be included within such district if such part is not contiguous to such district. Such noncontiguous part shall instead be included with that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia.

APPENDIX C

CERTIFICATE AS TO MINIMUM STANDARDS
FOR INCORPORATION OF A NEW MUNICIPAL CORPORATION

I, Senator Dan Weber, Georgia State Senator from the 40th District and the author of this bill introduced at the 2006 session of the General Assembly of Georgia, which grants an original municipal charter to the City of Dunwoody, do hereby certify that this bill is in compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A. in that the area embraced within the original incorporation in this bill is in all respects in compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A.

This certificate is executed to conform to the requirements of Code Section 36-31-5 of the O.C.G.A.

So certified this ____ day of _____, 2006.

Honorable Dan Weber
Senator, 40th District
Georgia State Senate

Redistricting Plan Components Report

District 001

DeKalb County

Tract: 212.07
Tract: 212.13
Tract: 212.14
BG: 2
2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012
2013
BG: 3

District 002

DeKalb County

Tract: 212.10
Tract: 212.12
BG: 2
2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013
2014 2015 2016 2017 2018 2019 2020 2021 2028 2042 2043 2044
2045 2046
Tract: 212.14
BG: 1
BG: 2
2000 2014 2015

District 003

DeKalb County

Tract: 212.11
Tract: 212.12
BG: 2
2000 2001 2022 2023 2024 2025 2026 2027 2029 2030 2031 2032

2033 2034 2035 2036 2037 2038 2039 2040 2041

Tract: 213.04

BG: 2

That part of block 2017 that lies within
the City of Dunwoody.

BG: 3

3000 3001 3002 3003 3004 3005 3006 3007 3008 3009 3010 3011
3017 3018 3019 3999